

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)**

UNITED STATES, *et al.*,

Plaintiffs,

V.

GOOGLE LLC,

Defendant.

1:23cv00108 (LMB/JFA)

**MOTION TO BE HEARD
ON NEED FOR ADVANCE NOTICE
TO MEDIA BEFORE CLOSING COURTROOM**

Non-parties Bloomberg L.P., The New York Times Company, and The Washington Post (collectively, “the media organizations”) respectfully request to be heard tomorrow, September 13, 2024, on the need for advance notice to the media before closing the courtroom for sealed proceedings in the above-captioned case.

There is a strong presumption of open access to court proceedings under the U.S. Constitution and the traditions of this Court. The Fourth Circuit thus has repeatedly confirmed that “[c]losure motions must be docketed reasonably in advance of their disposition to give the public and press an opportunity to intervene and present their objections to the court,” and “when the district court has been made aware of the desire of specific members of the public to be present, reasonable steps to afford them an opportunity to submit their views should be taken before closure.” *In re Knight Pub. Co.*, 743 F.2d 231, 234 (4th Cir. 1984). That is consistent with the general rule that ““representatives of the press and general public must be given an opportunity to be heard on the question of their exclusion.”” *Id.* (quoting *Globe Newspaper Co.*

v. Superior Court, 457 U.S. 596, 609 n. 25 (1982)). Moreover, “[w]hen a closure motion is made in open court, persons present must be given notice and an opportunity to object before the public can be excluded.” *Id.*; see also *In re S.C. Press Ass’n*, 946 F.2d 1037, 1039–40 (4th Cir. 1991).

The media organizations recognize that some exhibits in this case are under seal. It is the media organizations’ understanding, however, that all parties are informed of the expected order of witnesses in advance of each trial day. Thus, it should be reasonably foreseeable to all parties whether a witness will be questioned (either on direct or cross) about one or more sealed documents and whether there may be a need to close the courtroom for all or part of such examination.

Accordingly, the media organizations ask that the Court require any party who anticipates a need to close the courtroom for any reason to so advise the Court and any media organizations in attendance at the end of the preceding trial day. The media organizations ask that they then be given time at the beginning of the following trial day to object to such courtroom closure, through counsel, if necessary.

Undersigned counsel will be before the Court at 8:30 a.m. tomorrow morning for another matter and asks that he be allowed a few moments before trial resumes in this case to discuss the issues raised in this motion.

Date: September 12, 2024

Respectfully submitted,

/s/Laurin H. Mills
Laurin H. Mills (VSB No. 79848)
Brian P. Donnelly (VSB No. 82052)
Werther & Mills LLC
2121 Eisenhower Avenue, Suite 608
Alexandria, VA 22314
Direct: 703-547-4696
Fax: 240-912-3031

Laurin@werthermills.com
bdonnelly@werthermills.com

Matthew A. Leish (*pro hac vice*)
Miller Korzenik Sommers Rayman LLP
1501 Broadway, Suite 2015
New York, New York 10036
Direct: 212-752-9200
mleish@mkslex.com

*Counsel for non-parties Bloomberg L.P.,
The New York Times Company,
and The Washington Post*

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of September, 2024, a copy of the foregoing was filed via the Court's CM/ECF electronic filing system, which will serve all counsel of record:

/s/Laurin H. Mills

Laurin H. Mills